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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Chang

Application No. \_\_\_\_\_

U.S. National Stage of PCT/US02/10764

Filed: April 4, 2002

Confirmation No. \_\_\_\_\_

For: NUCLEIC ACID VACCINES FOR  
PREVENTION OF FLAVIVIRUS  
INFECTION

Examiner:

Art Unit:

Attorney Reference No. 6395-64909-02

ATTENTION: PCT LEGAL STAFF  
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27 SEP 2004

Legal Staff  
International Division

**PETITION FOR REVIVAL OF INTERNATIONAL APPLICATION FOR PATENT  
DESIGNATING THE U.S. ABANDONED UNINTENTIONALLY  
UNDER 37 CFR § 1.137(b)**

The above-identified application became unintentionally abandoned as to the United States because the fees and documents required by 35 U.S.C. 371(c) were not filed prior to the expiration of the time set in 37 CFR 1.494(b) or (c) or 1.495(b) or (c) as applicable. The date of abandonment is the day after the date on which the 35 U.S.C. 371(c) requirements were due. See 37 CFR 1.494(g) or 1.495(h). The 30-month deadline for national stage entry for the PCT application was Saturday, October 4, 2003; therefore, a proper filing under 37 CFR § 1.495 on or before Monday, October 6, 2003, would have been timely. No such filing was made.

Applicants and their undersigned representative mistakenly believed that the PCT application disclosed the same subject matter as an earlier-filed, U.S. nonprovisional application (U.S. Application No. 09/826,115 filed April 4, 2001). Therefore, it was wrongly understood by Applicants and their undersigned representative that entering the U.S. national stage with the PCT application would be redundant and unnecessary.

On Wednesday, June 23, 2004, Applicants learned that the PCT application incorporated subject matter that was not included in the earlier-filed U.S. Application No. 09/826,115. Thus, when the PCT application became abandoned in the United States, the Applicants unintentionally and unknowingly

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abandoned the subject matter unique to the PCT application for purposes of patent protection in the United States.

The entire delay from the deadline for entering the national phase under 35 U.S.C. §371 until the filing of a grantable petition under 37 C.F.R. §1.137(b) was unintentional on the part of Applicants and their undersigned representative.

The petition fee (\$1,330) under 37 C.F.R. §1.17(m), and a Reply including all of the submissions required for national stage entry under 37 C.F.R. §1.495 (including a copy of the PCT application, the basic national fee (\$100) under 37 C.F.R. §1.492(a)(4), the excess claim fees (\$414) under 37 C.F.R. §1.492(c), a declaration of the inventor, and a Preliminary Amendment) are included herewith. Since this application has an international filing date on or after June 8, 1995, no terminal disclaimer is required.

If the Commissioner determines that any additional fees that may be required in connection with filing this Petition and/or the enclosed national stage application, or credit any overpayment, Deposit Account authority is provided on the accompanying transmittal letter.

Applicants respectfully request that this Petition be granted, and that the above-identified PCT application be revived for the purposes of entering the U.S. national stage. If the Petition is not granted, Applicants respectfully request the refund of the basic national fee under 37 C.F.R. §1.492(a)(4) and excess claims fees under 37 C.F.R. §1.492(c).

Respectfully submitted,

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